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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/815,940

04/02/2004

Hiroshi Terazawa

TERA3002/FJD

8949

23364

7590

04/19/2006

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EXAMINER

PATEL, VISHAL A

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 04/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/815,940	TERAZAWA, HIROSHI	
	<b>Examiner</b>	<b>Art Unit</b>	
	Vishal Patel	3673	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 13 February 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 5-9 is/are pending in the application.
- 4a) Of the above claim(s) 8 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 5-7 and 9 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Newly submitted claim 8 is directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: Claim 8 is directed to a different species than the one elected by the applicant, applicant has not claimed a labyrinth seal in any of the claims 1-4.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claim 8 is withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

### ***Claim Rejections - 35 USC § 112***

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 5-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5, lines 3-5, the limitations in these lines do not provide a clear language to what applicant is trying to claim, particularly the second annular case has a cylindrical portion and a second cylindrical portion. In conclusion applicant means to claim a vertical portion that is part of the second annular case. This is what is assumed for examination purpose.

Claim 5, "its let portion from the first vertical wall", unclear what applicant is trying to claim by this language.

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Claim 8, lines 2, "a fitting cylindrical portion", is this the same fitting cylindrical portion as claimed in lines 3-5.

In conclusion applicant means to claim a vertical portion that is part of the second annular case. This is what is assumed for examination purpose.

Claim 6, "said axial lip is formed as two lips", how can an axial lip have two lips? If two lips, applicant has failed to say that both lips contact the vertical wall of the first annular case.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 5, 7 and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Mitsue et al (US. 4,516,783).

The reference of Mitsue clearly discloses every feature claimed by applicant, see figure 5), a first annular case (30), a second annular case (40), an axial lip (lip that contacts surface 32b) on the second case that contact the first case vertical wall (32b) and a radial lip (lip 48) that directly contact one of a stationary or rotary members of a bearing unit (surface 54 is either a stationary or rotary member surface) and the bearing unit having stationary and rotary members. There is a gap between the end of 32c and end of the fitting cylindrical portion of the second annular cast that is on 102.

6. Claims 5-7 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Ohtsuki et al (US. 6,637,754).

Ohtuski discloses a bearing unit (figure 28-29) having a stationary member and a rotary member (rings 1 and 2), a seal having a first annular case (11), a second annular case (12), both cases having a fitting cylindrical portion and a vertical wall extending therefrom, an annular seal member on the second case (seal formed by two axial lips 16a and 16b2, where lip 16a contacts the vertical wall), the seal is disposed in the bearing unit, the first annular case is on either the stationary or rotary members and the second annular case is on either the other of the stationary or rotary members and the seal having a second axial lip (lip 16b2).

For courtesy the limitations of claim is disclosed by Ohtsuki (figure 28). A gap exist between the stationary member or rotary member, an end of the fitting cylindrical portion of the second annular case and an end of the vertical wall of the first fitting member (L-shape gap near the numeral 17), the gap constitutes a labyrinth portion with an L-shape section.

7. Claims 5-7 and 9 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by AAPA (figure 5 or 6).

AAPA figures 5 and 6 disclose all the limitations of the claims.

#### ***Response to Arguments***

8. Applicant's arguments with respect to claims have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Even if applicant would claim that both the axial lips contact the vertical case of the first annular case, the rejection that was sent as a non-final office action would apply.

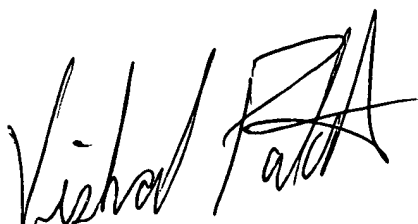
Art Unit: 3673

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vishal Patel whose telephone number is 571-272-7060. The examiner can normally be reached on 6:30am to 8:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patricia L. Engle can be reached on 571-272-6660. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

VP  
April 13, 2006

A handwritten signature in black ink, appearing to read 'Vishal Patel', with a stylized flourish at the end.

Vishal Patel  
Patent Examiner  
Tech. Center 3600